FILED
HARRISBURG, PA
MAY 03 2017

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIM. NO. 1:17-CR-143
v.	:	
KEYSTONE BIOFUELS, BEN WOOTTON, and RACE MINER Defendants	:	Judge Jones

INDICTMENT

THE GRAND JURY CHARGES THAT:

Count 1

Conspiracy to Commit Criminal Offenses

(18 U.S.C. § 371)

At all times material to this Indictment:

Persons and Business Entities

1. Defendant KEYSTONE BIOFUELS, INC. (KEYSTONE) was a business originally located in Shiremanstown, Pennsylvania, that later relocated to Camp Hill, Pennsylvania. At these locations, the company operated a production plant that could process animal fats and vegetable oils ("feedstock") into a renewable fuel.

2. Defendant BEN WOOTTON was a resident of Pennsylvania, who served as the President and owner of KEYSTONE, and was at all times acting within the scope of his employment and agency and at least in part for the benefit

of KEYSTONE. Defendant WOOTTON was a Member of the National Biodiesel Board and Chair of the Regulatory Committee.

3. Defendant RACE MINER was a resident of Pennsylvania and Colorado who served as the Chief Executive Officer and owner of KEYSTONE at various times, and was at all times acting within the scope of his employment and agency and at least in part for the benefit of KEYSTONE. Defendant MINER oversaw production of fuel at KEYSTONE. Defendant MINER was also the owner of a Colorado business that purported to perform sampling and laboratory analysis.

4. "Company A" was a fuel blender and wholesaler located in Middletown, Pennsylvania. Company A regularly and knowingly purchased off-specification ("off-spec") fuel from the defendants.

5. "Employee 1" was an employee of Company A whose responsibilities included acquiring renewable fuels on behalf of Company A. Employee 1 was the primary employee of Company A that arranged for the purchase of off-spec fuel from defendants.

6. Unindicted Co-conspirator 1 was the business development manager employed at KEYSTONE. Unindicted Co-conspirator 1 also had some financial responsibilities at KEYSTONE. Unindicted Co-conspirator 1 at various times, and at the direction of defendants WOOTTON and MINER, created and oversaw the creation of fraudulent documents and corporate records to provide the appearance of normal corporate operations at defendant KEYSTONE.

7. Unindicted Co-conspirator 2 was a plant worker employed at KEYSTONE.

Renewable Identification Numbers

8. Laws passed by Congress, particularly the Energy Independence and Security Act of 2007, required the U.S. Environmental Protection Agency (EPA) to promote renewable fuel production and use in the United States.

9. To this end, the EPA created a program (known as the Renewable Fuel Standard or "RFS") requiring petroleum refiners and importers to have renewable fuel in their product portfolios. Under the RFS, refiners and importers were required to produce a certain amount of renewable fuel or, as an alternative to physically producing this fuel, to purchase credits (called "renewable identification numbers" or "RINs") from renewable fuel producers.

10. Registered renewable fuel producers generated RINs when they produced qualifying renewable fuels, such as biodiesel, in compliance with EPA regulations. Once a RIN is generated, it can be traded or sold on the open market.

11. Prior to July 1, 2010, businesses dealing in RINs sent paper reports to the EPA about their RIN activity, including RIN generation, separation, purchase, and sales reports. After July 1, 2010, such RIN transactions were reported electronically through the online EPA Moderated Transaction System (EMTS).

12. "Biodiesel" (also known as "methyl ester" or "mono-alkyl ester") is a specific type of renewable fuel that meets a set of standards established by the American Society of Testing and Materials (ASTM) known as ASTM D6751. Producing biodiesel allows registered producers to generate biodiesel RINS.

13. Biodiesel RINs cannot be generated unless the biodiesel produced meets the full ASTM D6751 standard. It is illegal to generate RINs for a volume of biodiesel not produced in compliance with EPA regulations, including the requirement that the biodiesel meet ASTM D6751.

14. RINs could only be generated once for a given quantity of fuel.

The Conspiracy and Its Objects

15. At a time unknown to the Grand Jury, but no later than August 13, 2009, until at least on or about September 24, 2013, in Cumberland County, within the Middle District of Pennsylvania, and elsewhere, the defendants,

KEYSTONE, BEN WOOTTON, and RACE MINER,

did knowingly combine, conspire, confederate, and agree with others known and unknown to the grand jury to commit an offense against the United States; specifically, the defendants conspired to:

> knowingly and willfully falsify, conceal, and cover up by trick, scheme, or device a material fact; and make materially false, fictitious, and fraudulent statements or representations; and make and use a false writing or document

knowing the same to contain a materially false, fictitious, and fraudulent statement or entry, in violation of 18 U.S.C. § 1001;

Means and Methods of Conspiracy

16. The co-conspirators used the following means and methods, among others, to carry out the conspiracy and achieve its unlawful objects:

17. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, regularly produced off-spec non-biodiesel (fuel that did not meet the ASTM D6751 standard) at both the Shiremanstown facility and the Camp Hill facility.

18. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, regularly generated "biodiesel" RINs on fuel that did not meet the ASTM D6751 standard and was not biodiesel.

19. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, falsely communicated to the EPA, and caused others to communicate to EPA that KEYSTONE had produced actual biodiesel, causing biodiesel RINs to be generated for the off-spec non-biodiesel fuel. Throughout the course of their conspiracy, the co-conspirators generated over 16 million of these "biodiesel" RINs.

20. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, sold these fraudulent RINs into commerce. Although RIN prices varied over time,[1] an estimated price of $.65 per RIN indicates that over $10 million was generated from these RIN sales.

21. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, "doctored" fuel samples before sending them to customers and laboratories as proof that they were producing actual ASTM-compliant biodiesel.

Overt Acts

22. In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, did commit the following acts, among others, in the Middle District of Pennsylvania and elsewhere:

23. On or about August 25, 2009, Unindicted Co-conspirator 2 sent a sample of biodiesel—produced at the Shiremanstown facility—that had been frozen and filtered to a laboratory for analysis.

[1] RIN prices fluctuate daily. Throughout the course of the conspiracy, prices ranged from as little as $.10 per RIN to almost $2.00 per RIN.

24. On or about September 10, 2009, KEYSTONE issued an invoice to a customer for 7000 gallons of biodiesel labeled "B99.9."

25. On or about October 1, 2009, Unindicted Co-conspirator 2 sent an email to WOOTTON and MINER informing them that he sent two samples of biodiesel for analysis, one that was untreated, and one that had been frozen and filtered. Unindicted Co-conspirator 2 reported that the untreated sample "failed miserably" and that he "prefer[ed] not to 'doctor' the samples to get passing results."

26. On or about November 19, 2010, defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, issued invoice 2010-1119 to Company A for the sale of 21,608 gallons of biodiesel (labeled "B 100").

27. On or about September 22, 2011, Unindicted Co-conspirator 1 sent an email to WOOTTON and MINER, and Unindicted Co-conspirator 2, stating "Cold soak didn't make it" and attaching a laboratory analysis showing that a sample of biodiesel failed two ASTM D6751 parameters: oxidation stability and cold soak filterability.

28. On or about October 10, 2011, defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, issued invoice 2011-1010 to Company A for the sale of 22,500 gallons of biodiesel (labeled "B 100 Biodiesel").

29. On or about April 30, 2012, defendants KEYSTONE, WOOTTON, and MINER generated 129,455 “biodiesel” RINs on 86,303 gallons of fuel that did not meet ASTM D6751

30. On or about May 2, 2012, defendants KEYSTONE, WOOTTON, and MINER generated 85,724 “biodiesel” RINs on 57,149 gallons of fuel that did not meet ASTM D6751. Thereafter, defendants KEYSTONE, WOOTTON, and MINER sold the fuel and RINs to Company A.

31. On or about May 10, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 43,305 gallons of fuel produced at defendant KEYSTONE’s facility was biodiesel conforming to ASTM D6751.

32. On or about May 15, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 42,796 gallons of fuel produced at defendant KEYSTONE’s facility was biodiesel conforming to ASTM D6751.

33. On or about June 25, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 14,508 gallons of fuel produced at defendant KEYSTONE’s facility was biodiesel conforming to ASTM D6751.

34. On or about August 27, 2012, defendants KEYSTONE, WOOTTON, and MINER generated 76,511 RINs on 51,007 gallons of fuel that did not meet ASTM D6751. Thereafter, defendants KEYSTONE, WOOTTON, and MINER sold the fuel and RINs to Company A.

35. On or about August 29, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 29,005 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

36. On or about September 25, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 43,608 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

37. On or about November 2, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 14,703 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

Each one of which is a separate overt act in furtherance of the conspiracy.

In violation of Title 18, United States Code, Section 371.

THE GRAND JURY FURTHER CHARGES THAT:

Counts 2-7

False Statements

(18 U.S.C. § 1001)

38. The Grand Jury incorporates by reference paragraphs 1-14 and 16-37.

39. On or about the dates set out below, defendants,

KEYSTONE BIOFUELS, BEN WOOTTON, and RACE MINER

in a matter within the jurisdiction of the EPA, an agency of the executive branch of the government of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations or caused others to make materially false, fictitious, and fraudulent statements and representations; namely electronic submissions to EPA requesting the generation of biodiesel RINs for fuel that was purported to be biodiesel, but did not meet ASTM D6751 and was not biodiesel, as set out below:

Count	Date	Fuel Gallons	RIN quantity
2	05/10/2012	55,175.00	82,763
3	05/10/2012	56,991	85,487
4	05/14/2012	71,138.00	106,707
5	06/25/2012	25,503.00	38,255
6	09/25/2012	31,615.00	47,423
7	11/02/2012	13,305	19,958

All in violation of Title 18, United States Code, Section 1001 and Section 2.

A TRUE BILL:

[redacted]

FOREPERSON, GRAND JURY
This 3rd day of May, 2017.

JEFFREY H. WOOD
Acting Assistant Attorney General
Environment & Natural Resources Division

BRUCE D. BRANDLER
United States Attorney
Middle District of Pennsylvania

By:

HOWARD P. STEWART
Senior Litigation Counsel
Environmental Crimes Section
United States Department of Justice
ADAM C. CULLMAN
Trial Attorney
Environmental Crimes Section

GEOFFREY W. MACARTHUR
Assistant United States Attorney
Middle District of Pennsylvania
DAVID LASTRA
Special Assistant United States Attorney
Middle District of Pennsylvania